

**BEFORE THE INDIANA CIVIL RIGHTS COMMISSION**  
**311 West Washington Street**  
**Indianapolis, Indiana 46204**

STATE OF INDIANA    )  
                                  ) SS  
COUNTY OF MARION )

**CHRISTINE BUFORD,**  
**Complainant,**

**DOCKET NO. PAr77030157**

**vs.**

**LUCIFER'S INC.,**  
**Respondent.**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

Respondent Lucifer's, Inc. (hereinafter "Lucifer's") was found by the Indiana Civil Rights Commission (hereinafter "ICRC") to have committed an unlawful racially discriminatory act against Complainant Christine Buford (hereinafter "Buford") by virtue of an Order by Default entered December 15, 1977 after proper application by Buford. Lucifer's filed a verified Motion to Set Aside Default, which was denied on February 15, 1978. A hearing was held on March 16, 1978 before the ICRC for the purpose of determining what damages, if any, and what other relief to grant to Buford as a result of the discriminatory act against her by Lucifer's.

Commissioner James A. Lang was appointed to preside at the hearing by the Chairman, Mr. John C. Carvey. Besides Commissioners Lang and Carvey, Commissioners Dr. C.T. Boyd, Ms. Mary W. Shafer, and Mr. David L. Staples were present at the hearing. Complainant was present and represented by counsel, Ms. M.E. Tuke and Mr. Robert D. Lange. Respondent was represented by counsel, MR. Gary R. Landau.

Having considered the official record, the evidence adduced at the hearing, the arguments of counsel, both oral and by brief, and being duly advised in the premises, the Commission hereby enters the following Findings of Fact, Conclusions of Law, and Order:

### **FINDINGS OF FACT**

1. Buford is a black (or Negro) woman forty (40) years of age.
2. Lucifer's is an Indiana corporation engaged in the selling of food and beverages, at least some of which are alcoholic beverages. As part of its business, Lucifer's operates what is commonly known as a discotheque. The establishment is located in Marion County, Indiana. Lucifer's has been so situated at times material to this complaint.
3. Lucifer's holds a license from the Indiana Alcoholic Beverage Commission (hereinafter "ABC") to serve alcoholic beverages.
4. Lucifer's is an establishment that offers its services, facilities and good to the general public.
5. On April 5, 1977, Buford filed a complaint with ICRC, alleging that on March 24, 1977, Lucifer's denied her admission to its establishment on the basis of race.
6. Lucifer's was served with said complaint by serving a copy on Mr. Jack Brinson at its place of business and by serving a copy on its Resident Agent, both by certified mail on April 22, 1977.
7. The complaint was duly investigated by the staff of ICRC and the Director made a finding of Probable Cause on October 21, 1977.
8. On October 29, 1977, Notice of Hearing was served on counsel for the parties setting a hearing for November 17, 1977.
9. On November 4, 1977, Complainant, by counsel, filed a Motion for Order by Default on the grounds that Lucifer's had failed to timely file its Answer.
10. On November 15, 1977, Complainant, by counsel, filed a Motion for Continuance of the November 17 hearing.

11. On November 15, 1977, Complainant, by counsel, filed a Motion for Continuance of the November 17 hearing.
12. Complainant's November 15 Motion for Continuance was granted.
13. On November 18, 1977, ICRC granted Complainant's Motion for Order by Default.
14. Counsel for Lucifer's was served with ICRC's Order by Default on November 22, 1977.
15. On December 15, 1977, Lucifer's filed its Verified Motion to Set Aside Default, to which Complainant, by counsel, replied on January 18, 1978.
16. On February 15, 1978, the Chairman of ICRC denied the Verified Motion to Set Aside Default.
17. Notice of Hearing on Damages and other relief was served on Complainant and Respondent on March 1, 1978, setting such a hearing on March 16, 1978.
18. Buford went to Lucifer's on March 24, 1977 with her brother, Mr. Emmitt J. Armour, and John and Helen Marbury. The Marbury's were friends of hers and resided, at the time, in Louisville, Kentucky.
19. The party was denied admission by Lucifer's, ostensibly due to the failure of each member to show three (3) pieces of identification showing their date of birth even though whites or Caucasians, were observed being admitted before showing three (3) pieces of identification.
20. Each of the four (4) members of the party was over twenty-one (21) years of age, looked over twenty-one (21) years of age, and produced at least one piece of identification showing their age to be over twenty-one (21). In addition, the Marbury's showed their Kentucky drivers licenses, which contained pictures.
21. As a direct result of the refusal of Lucifer's to admit her and her party, Buford suffered the following:
  - a. Embarrassment, humiliation, and indignity; and ,
  - b. Loss of standing with her friends; and,
  - c. Inconvenience.
22. Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

## **CONCLUSIONS OF LAW**

1. The complaint was timely filed and meets all requirements of IC 22-9-1-3(o).
2. Lucifer's is a "public accommodation" as that term is defined in IC 22-9-1-3(m).
3. Lucifer's is a corporation and is, therefore, a "person" as defined in IC 2—9-1-3(a).
4. By virtue of the Order by Default, Lucifer's has been deemed to have admitted the truth of the charge, Ind. Ind. Admin. R. and Reg. §(22-9-1-6)-8©, and thereby is deemed to have admitted to using different standards for the admission of blacks, or Negroes, than for whites, or Caucasians.
5. This disparity excluded Buford from equal opportunity because of race and was, therefore, a "discriminatory practice" as defined in IC 22-9-1-3(1).
6. Since there is no specific exemption in the Indiana Civil Rights Law, IC 22-9-1, for this behavior and since "[e]very discriminatory practice relating to ...public accommodations...shall be considered unlawful unless it is specifically exempted by this chapter.", IC 22-9-1-3(1), the practice was unlawful.
7. IC 22-9-1-6(k) (1) provides that

[t]he Commission shall have the following powers and duties:... (k) (1)... if the Commission finds that a person has engaged in an unlawful discriminatory practice, it may cause to be served on such person an order requiring such person to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power to restore complainant's losses incurred as the result of discriminatory treatment, as the Commission deems necessary to assure justice,...; to require the posting of notice setting forth the public policy of Indiana concerning civil rights and Respondent's compliance with said policy in places of

public accommodations; to require proof of compliance to be filed by Respondent at periodic intervals, to require a person who has been found to be in violation of the Indiana Civil Rights Law, and who is licensed by a state agency authorized to grant a license, to show cause to the licensing agency why his license should not be revoked.

IC 22-9-1-6(k) (1).

8. Buford proved that she suffered the “losses” exemplified by her embarrassment, humiliation, indignity and inconvenience. Such harm has been considered by the Indiana courts to be an appropriate subject for compensatory damage awards and thus those losses are pecuniary in nature. Five hundred dollars (\$500.00) is deemed to be an appropriate amount in this case.
9. Any Finding of Fact which should have been deemed a Conclusion of Law is hereby adopted as such.

### **ORDER**

1. Lucifer's shall cease and desist from requiring of blacks identification which is different in type and/or number from that required from similarly situated whites.
2. Lucifer's shall post a notice setting forth the public policy of Indiana that equal access to and use of public accommodations shall not be denied due to race and that it is in compliance with said policy.
3. Lucifer's shall deliver to ICRC copies of signed statements of all persons in its employ who may, on any occasion, deny admission to persons due to insufficient identification indicating that said person has been advised that all discrimination in admission requirements due to race is contrary to law and corporate policy and that violations of said policy will result in immediate discharge. These signed statements shall be delivered within thirty (30) days from the date of this Order.

4. The duty to advise employees that discrimination in admission requirements will result in immediate discharge is continuing and, therefore, Lucifer's shall submit a report every ninety (90) days for the next three (3) years which report shall include the names of all new employees hired who may, at any time, deny admission to persons due to insufficient identification and copy of a statement signed by each new employee similar to that statement referred to in three (3) above.
5. Lucifer's shall deliver to ICRC as escrow agent, a check payable to Christine Buford in the amount of five hundred dollars (\$500.00), all to be completed within thirty (30) days of the date of this Order.
6. Lucifer's shall show cause to the ABC why its license should not be revoked.

**Signed: November 17, 1978**